

§ 38.631

(2) *Unavailable remains.* An individual's remains are considered unavailable if they:

- (i) Have not been recovered or identified;
- (ii) Were buried at sea, whether by the individual's own choice or otherwise;
- (iii) Were donated to science; or
- (iv) Were cremated and the ashes scattered without interment of any portion of the ashes.

(3) *Placement of memorial headstones or markers*—(i) *Veterans.* A Government memorial headstone or marker to commemorate a veteran may be placed in a national cemetery, in a State veterans cemetery, or in a private cemetery.

(ii) *Other eligible individuals.* A Government memorial headstone or marker to commemorate a veteran's eligible spouse, surviving spouse, or dependent child may be placed only in a national cemetery or in a State veterans cemetery.

(Authority: 38 U.S.C. 501, 2306)

[70 FR 4769, Jan. 31, 2005, as amended at 72 FR 53432, Sept. 19, 2007; 74 FR 20226, May 1, 2009]

§ 38.631 Graves marked with a private headstone or marker.

(a) VA will furnish an appropriate Government headstone or marker for the grave of a decedent described in paragraph (b) of this section, but only if the individual requesting the headstone or marker certifies on VA Form 40-1330 that it will be placed on the grave for which it is requested or, if placement on the grave is impossible or impracticable, as close to the grave as possible within the grounds of the private cemetery where the grave is located.

(b) The decedent referred to in paragraph (a) of this section is one who:

- (1) Died on or after November 1, 1990;
- (2) Is buried in a private cemetery; and
- (3) Was eligible for burial in a national cemetery, but is not an individual described in 38 U.S.C. 2402(4), (5), or (6).

(c) VA will deliver the headstone or marker directly to the cemetery where the grave is located or to a receiving agent for delivery to the cemetery.

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(d) VA will not pay the cost of installing a Government headstone or marker in a private cemetery.

(e) The applicant must obtain certification on VA Form 40-1330 from a cemetery representative that the type and placement of the headstone or marker requested adheres to the policies and guidelines of the selected private cemetery.

(f) VA will furnish its full product line of Government headstones or markers for private cemeteries.

(Authority: 38 U.S.C. 501, 2306)

(The Office of Management and Budget has approved the information collection requirements in this section under control number 2900-0222)

[70 FR 4769, Jan. 31, 2005, as amended at 72 FR 53432, Sept. 19, 2007; 73 FR 27463, May 13, 2008]

§ 38.632 Headstone or marker application process.

(a) *General.* This section contains procedures for ordering a Government-furnished headstone or marker through the National Cemetery Administration (NCA) headstone and marker application process for burial or memorialization of deceased eligible veterans and eligible family members. It also contains procedures for requesting the inscription of new emblems of belief on Government-furnished headstones and markers.

(b) *Definitions.* For purposes of this section:

(1) *Applicant* means the decedent's next-of-kin (NOK), a person authorized in writing by the NOK, or a personal representative authorized in writing by the decedent to apply for a Government-furnished headstone or marker and, in appropriate instances, a new emblem of belief for inscription on a Government-furnished headstone or marker.

(2) *Emblem of belief* means an emblem that represents the decedent's religious affiliation or sincerely held religious belief system, or a sincerely held belief system that was functionally equivalent to a religious belief system in the life of the decedent. In the absence of